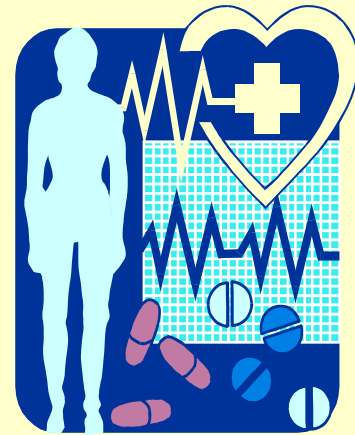




Medical Issues and the Orphans Process

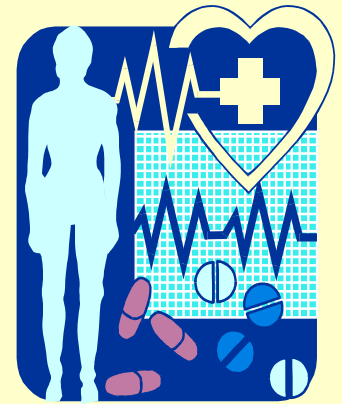


What are the medical grounds of inadmissibility?



- There are 4 categories:
 - Communicable disease of public health significance.
 - Lack of required vaccinations.
 - Physical and mental disorders with associated harmful behavior.
 - Drug abuse and drug addiction.

How are the medical grounds of inadmissibility determined?



- Per Health and Human Services (HHS) regulations. This covers:
 - The designation of the doctors who perform the exams (known as “panel physicians” outside the U.S. and “civil surgeons” in the U.S.).
 - The communicable diseases of public health significance.
 - Required testing procedures.
 - Reporting the results to the consular officer.

Inadmissible Medical Conditions That May be Encountered in Processing Orphans



- Communicable disease of public health significance
 - In orphan processing, TB and HIV are the most common.
- Physical or mental disorder with associated harmful behavior
 - Depending on the age and circumstances of the child.
- Lack of required vaccinations
 - Adoptive parents object because of religious or moral reasons.

What Does the Medical Exam Involve?



- All applicants are required to have a complete physical exam.
- Applicants age 15 and older are required to have a chest x-ray for TB.
 - Chest X-ray required for applicants younger than 15, if they have symptoms of TB, they have a history of TB, or there is a possibility they have been exposed to TB.

What Does the Medical Exam Involve?

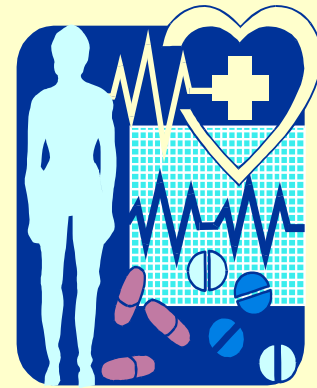
(continued)



- Applicants age 15 and older are required to have serologic (blood) tests for HIV and syphilis.

- When the child's medical history is unknown (for example, orphans or children from a group home), panel physicians must use discretion in determining whether the child should be tested for TB, HIV, or syphilis.

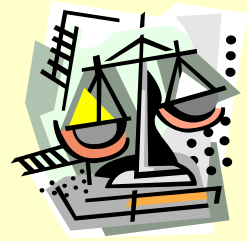
What is a communicable disease of public health significance?



- The following 8 medical conditions are defined as a communicable disease of public health significance:
 - Infectious TB
 - Chancroid
 - Gonorrhea
 - HIV/AIDS
 - Hansen's (Infectious leprosy)
 - Lymphogranuloma venereum
 - Infectious state syphilis
 - Granuloma inguinale



Is a Waiver Available if the Orphan has a Communicable Disease of Public Health Significance?



- A waiver is authorized for lawfully adopted children of U.S. citizens.
- The waiver may be granted by the Attorney General (INS) according to the terms, controls, and conditions considered necessary by HHS.
- The applicant (or sponsor) must identify a suitable health care provider in the U.S.
 - Must report to the health care provider within 30 days of admission with the immigrant visa.



Special Waiver Requirements -- TB



- In order to be cleared for travel and receive the waiver, the applicant must not be communicable.
 - This usually requires a specific course of medication.
 - After the prescribed course of medication is complete, the applicant must have 3 negative sputum smears.
 - Will still be clinically active, but no longer communicable.



Special Waiver Requirements -- HIV



- The INS has established 3 additional requirements to protect public health and safety in the U.S.
 - The danger of the public health of the U.S. created by the applicant's admission is minimal.
 - The possibility of the spread of the infection created by the applicant's admission to the U.S. is minimal.
 - There will be no cost incurred by any level of Government agency (state, local, or Federal) without the agency's prior consent.

Examples of Documents that can Meet the Special HIV Filing Requirements



First 2 Requirements

- Proof of arrangements made for medical care and treatment in the U.S.
- Proof the applicant (in the case of a child, the parent) is aware of the nature and severity of the condition.
 - This usually involves counseling.
 - In orphan cases, this may mean updating the home study to ensure the child is going to a suitable home.

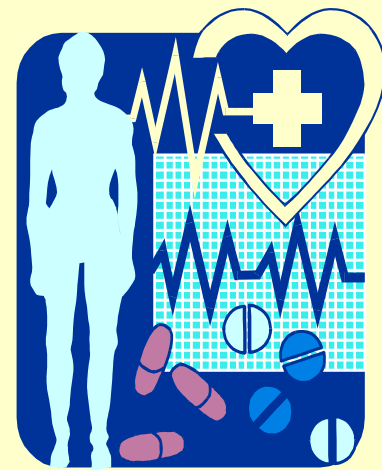
Examples of Documents that can Meet the Special HIV Filing Requirements (continued)



Third Requirement

- Examples include, but are not limited to proof of:
 - Private insurance
 - Personal financial resources
 - Assistance from a hospital, nonprofit organization, hospital, or research facility that will provide care at no cost to the Government
- Publicly funded medical treatment is not disqualifying, if the agency issues a formal letter of consent.

What are the required vaccinations?



- Mumps
- Measles
- Rubella
- Polio
- Tetanus
- Diphtheria Toxoids
- Pertussis
- Influenza type B
- Hepatitis B
- Any other ACIP recommended vaccines



Are there any Exceptions for Orphans?



- Yes. The law provides exceptions for orphans age 10 and younger.
- They must be applying for immigrant visas as IRs under INA 201(b). (IR-3 and IR-4 only).
- These orphans are not exempt altogether.

How do orphans benefit from the vaccination exception?



- The adoptive parent must sign an affidavit that the child will be vaccinated within 30 days of arrival or when it is medically appropriate.
- Adoptive parents who cannot sign the affidavit in good faith because of religious beliefs or moral objections must apply for a waiver on behalf of the child.



What are the requirements for waivers based on religious or moral objections?



- The applicant must be opposed to vaccinations in any form.
- The objections must be based on religious beliefs or moral convictions (not necessarily a “recognized” or “mainstream” religion).
- The religious beliefs or moral convictions must be sincere.
 - If the applicant is a child, the parent must meet these requirements.

What if the child is age 11 or older?



- If the child does not have all the required vaccinations, a waiver is required,
 - Under the streamlined procedures, based on the panel physician's certification
 - OR
 - Individually, based on religious or moral objections.

How do the streamlined waiver procedures work?



- No form or fee is required. INS gave authority to the consular officers to grant the waiver based on the doctor's certification. The streamlined procedures cover 2 scenarios:
- The applicant received the missing vaccines; OR
- It is not medically appropriate for the applicant to have the missing vaccine(s):
 - Allergies, hypersensitivity, pregnancy, insufficient interval between doses, vaccine is unavailable, vaccination assessment was not performed during the fall (flu) season.



Are Waivers Available for Physical and Mental Disorders With Associated Harmful Behavior ?



- Yes. The INS can grant the waiver according to the terms and conditions considered necessary by HHS.

- A specific family relationship is not required.
- In orphan cases, this means the child does not have to be lawfully adopted abroad. Rather, the child may be coming to the U.S. for adoption.



Are Waivers Available for Drug Abuse/Drug Addiction?



- No, but the applicant can be re-examined at a later date. If the doctor finds that the applicant is in remission, the applicant (parents) can resubmit the application, if eligible.
 - This ground of inadmissibility does not arise very often in orphan processing.

Helpful Resources



• Legal references

- Section 212(a)(1)(A) of the Act - medical inadmissibility grounds defined.
- Section 212(g) - medical waiver provisions.
- 42 CFR part 34 - HHS regulations.

• Medical Screening Requirements

- Technical Instructions for Civil Surgeons and Panel Physicians -

<http://www.cdc.gov/ncidod/dq/technica.htm>.

(Published by the Centers for Disease Control and Prevention)